## IN THE UNITED STATES DISTRICT COURT MIDDLE DISTRICT OF TENNESSEE CIVIL RIGHTS DIVISION JOHN ANTHONY GENTRY, Plaintiff CASE NO. 3:16 -cv-02617 vs. Judge Trauger/Brown THE HONORABLE JUDGE JOE H THOMPSON JURY DEMANDED (12) CIRCUIT COURT JUDGE

## PLAINTIFF'S MOTION TO ALTER JANUARY 26, 2017 MEMORANDUM & ORDER AND REQUEST FOR LEAVE TO AMEND

Defendant

Pursuant to Fed. R. Civ. P. Rule 59 (e), Plaintiff hereby respectfully moves this Honorable Court to Alter or Amend the Order dated January 26, 2017 for good cause. Pursuant to Local Rule 7.01, Plaintiff's Motion is accompanied by a memorandum of law citing supporting authorities.

1. Pursuant to Fed. R. Civ. P. Rule 59 (e) as amended, "A motion to alter or amend a judgement must be filed no later than 28 days after the entry of judgement". This Court's Memorandum & Order was entered into the record on January 26, 2017. Plaintiff's Motion to Alter or Amend and accompanying Memorandum of Law are properly filed on February 26, 2017, only eleven days after entry of the Court's Order. Therefore, Plaintiff's Motion to Alter or Amend and accompanying memorandum of law are filed timely.

- 2. As this Honorable Court knows, a Rule 59 (e) motion to alter or amend must clearly establish either a manifest error of law or fact.
- 3. Plaintiff respectfully asserts the Court errored in assessing the facts of Plaintiff's Amended Complaint. Plaintiff does not complain that Defendant "exhibited bias" although that is most definitely true. Plaintiff specifically complains that his right of due process, which includes a right to be heard, was grossly and repeatedly violated by Defendant in violation of the fourteenth amendment of the U.S. Const. Husband also explicitly complained that the Defendant grossly and repeatedly obstructed evidence in further gross violation of Plaintiff's right of due process.
- 4. Plaintiff also respectfully asserts the Court errored in relying on the Rooker-Feldman Doctrine, and errored in asserting that either a denial of equal protection or deprivation of liberty or property in violation of the law are necessary elements to a 42 U.S.C. § 1983 cause of action and claim.
- 5. Plaintiff further respectfully asserts the Court errored in denying Plaintiff's Motion to Strike and the assertion that the "only appropriate vehicle" with which to challenge a R&R is under Fed. R. Civ. P. Rule 72(b)(2).
- 6. Plaintiff also respectfully requests the leave of this Honorable Court to amend his Complaint pursuant to Fed. R. Civ. P. Rule 15 (a) (2).
- 7. Based on Plaintiff's assertions above, and as substantiated with supporting authorities in Plaintiff's accompanying memorandum of law, Plaintiff respectfully requests that this Honorable

Court reverse or suspend its order to dismiss Plaintiff's Amended Complaint and grant Plaintiff leave to amend his Complaint.

In support of this motion, Plaintiff relies upon the accompanying memorandum of law.

Respectfully submitted,

John A Gentry, CPA, Pro Se 208 Navajo Court, Goodlettsville, TN 37072

(615) 351-2649 John.a.gentry@comcast.net

## **CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing was sent via email and via First Class US Mail, postage prepaid to;

Joseph Ahillen, BPR # 028378 Assistant Attorney General Civil Rights and Claims Division Office of the Attorney General P.O. Box 20207 Nashville, Tennessee 37202-0207

On this the 6<sup>th</sup> day of February, 2017

John Anthony Gentry, CPA

## Oath

State of Tennessee )
County of Muniful )

I, John Anthony Gentry, after being first duly sworn according to law, do hereby make oath and affirm that all statements included in **PLAINTIFF'S**MOTION TO ALTER JANUARY 26, 2017 MEMORANDUM & ORDER

AND REQUEST FOR LEAVE TO AMEND, are true and correct to the best of my knowledge, information and belief

John Anthony Gentry

Sworn to and subscribed before me, this state of the day of <u>Februar</u>, 2017

Notary Public 11 Cha Peter

My Commission Expires 5/22/2019